



GARY R. HERBERT  
Governor

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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

August 11, 2016

CERTIFIED RETURN RECEIPT  
7013 2250 0000 2310 2651

Brent Sumsion  
Geneva Rock Products  
1655 West 400 North  
P. O. Box 1955  
Orem, Utah 84059

Subject: Proposed Assessment for State Notice of Violation #MN-2015-60-04, Geneva Rock Products, Inc., Sage Canyon Quarry, M/049/0071, Utah County, Utah

### Response Due By: 30 Days of Receipt

Dear Mr. Sumsion:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced notice of violation (NOV). The NOV was issued by Division inspector, April Abate, on July 18, 2016. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$374.00. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this NOV has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.





**WORKSHEET FOR ASSESSMENT OF PENALTIES**  
**DIVISION OF OIL, GAS & MINING**  
**Minerals Regulatory Program**

NOV / CO #: MN-2016-60-04

PERMIT: M/049/0071

COMPANY / MINE Geneva Rock Products, Inc / Sage Canyon Mine

ASSESSMENT DATE August 10, 2016

ASSESSMENT OFFICER Lynn Kunzler

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

(1pt for NOV 5pts for CO)

None

**TOTAL HISTORY POINTS** 0

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event (A)  
(assign points according to A or B)

**A. EVENT VIOLATIONS (Max 45 pts.)**

1. What is the event which the violated standard was designed to prevent?  
WaterPollution, Environmental Harm,

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY    POINT RANGE

Insignificant

0-4

PROBABILITY

POINT RANGE

Likely

10-19

Unlikely

5-9

Occurred

20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS** 7

**PROVIDE AN EXPLANATION OF POINTS:** The inspector indicated that the sediment pond has not been constructed for 7 years. There is no evidence that the event has ever occurred, but potentially it could. Since it has been 7 years without occurring, it is considered to be unlikely to occur. Point are therefore assigned at the mid-point of the 'unlikely' range.



3. What is the extent of actual or potential damage?: No actual damage

**ASSIGN DAMAGE POINTS (Range 0-25) 3**

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**PROVIDE AN EXPLANATION OF POINTS:** No actual damage – potential damage would be low considering that this event has not occurred for the 7 years the mine has been operating without the sediment control. Points are therefore assigned at the lower end of the range.

**B. ADMINISTRATIVE VIOLATIONS (Max 25pts)**

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? \_\_\_\_\_  
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS:** \_\_\_\_\_

**TOTAL SERIOUSNESS POINTS (A or B) 10**

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

LEVEL of NEGLIGENCE.	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?)	1 - 15
Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?)	16 - 30

STATE DEGREE OF NEGLIGENCE: Negligent

**ASSIGN NEGLIGENCE POINTS 7**

**PROVIDE AN EXPLANATION OF POINTS:** This is considered ordinary negligence. Without justification to raise or lower the points, points were assigned at the mid-point of the 'Negligent' range.



**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

**Has Violation Been Abated?** No. *Therefore good faith point are not assessed. However, the abatement date has not lapsed as of the date of this assessment, and good faith could still be considered if the violation is abated prior to the deadline.*

- A. **EASY ABATEMENT** (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

	<u>Point Range</u>
Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-1 to -10
Normal Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time)	0

- B. **DIFFICULT ABATEMENT** (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

	<u>Point Range</u>
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-11 to -20
Normal Compliance (Operator complied within the abatement period)	-1 to -10
Extended Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time) (Permittee took minimal actions for abatement to stay within the limits of the violation, or the plan submitted for abatement was incomplete.)	0

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_

**ASSIGN GOOD FAITH POINTS** 0

**PROVIDE AN EXPLANATION OF POINTS:**   

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>10</u>
III.	TOTAL NEGLIGENCE POINTS	<u>7</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>17</u>
	<b>TOTAL ASSESSED FINE</b>	<b><u>\$374.00</u></b>